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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/22/08

SPONSOR     Martinez     LAST UPDATED                      HB                     

SHORT TITLE     Mental Health Court Resource Replacement     SB     214    

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ANALYST     C. Sanchez    

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$641.6	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to  
 SB 63, First District Mental Health Court; HB 48, 1<sup>st</sup> District Mental Health Court; HB 136, 13<sup>th</sup>  
 District Mental Health Court Program.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Department of Correction (DOC)

Bernalillo County Metropolitan Courts (BCMC)

### SUMMARY

#### Synopsis of Bill

The bill appropriates \$223,300 from the general fund to the Bernalillo county metropolitan court for expenditure in fiscal year 2009 to replace funds and resources for the mental health court in that court. The bill also appropriates \$418,300 from the general fund to First and Eleventh judicial district courts for expenditure in fiscal year 2009 to expand and enhance the mental health courts in those districts. All unexpended funds revert to the general fund at the end of fiscal year 2009.

### FISCAL IMPLICATIONS

According to the AOC, there are several direct cost savings gained through operation of mental health court programs, as well as several indirect costs that should be realized. The cost of incarcerating mentally ill offenders in jail will be reduced substantially due to their earlier release

from jail and effective use of existing resources in the community. The costs of treatment while inmates are incarcerated will be avoided which, while not effecting the individual court’s budget, will be a cost avoidance for their respective counties, since Medicare/Medicaid benefits stop while people are incarcerated. Mental Health Court programs drastically reduce the number of days that mentally ill offenders spend in the hospital receiving psychiatric treatment, which in turn reduces the cost for the counties since the majority of participants are indigent. Mental Health Court reduces the number of referrals to the State Psychiatric Hospital, which in turn results in cost savings for the Department of Health. Mental Health Court programs also reduce the amount of time that law enforcement spends interacting with mentally ill offenders since only a small percentage re-offend while participating in Mental Health Court programs.

It is likely that some of the individuals who would be adjudicated under this program would be Medicaid-eligible recipients. If this were the case, any monies used to provide mental health services that are part of the State Medicaid benefit package would be eligible for Federal match. The number of eligible clients and the amount of this impact cannot be readily determined.

The state will likely avoid future costs as the program successfully serves more clients.

The initial cost of the program of \$641,600.00 in fiscal year 2009 is subject to increased costs resulting from any increases in salaries and the costs of benefits for the FTEs.

The following table presents a breakdown of the entire appropriation:

Judicial Unit	MH Court Location	Replacement of Lapsing Funds and Resources Requests	Expansion and Enhancement Requests
First District	Santa Fe Co.		260.2
Eleventh District	San Juan Co.		158.1
Bernalillo County Metropolitan Court	Bernalillo Co.	223.3	
<i>Subtotals =</i>		223.3	418.3
<b>Total FY09 MH Court Funding Requests =</b>			<b>641.6</b>

**SIGNIFICANT ISSUES**

Nationally, estimates are that between 6% and 15% of people that are in jail have serious mental illnesses. This bill funds mental health programs that reduce the incidents of arrest and incarceration of repeat offenders with mental illness using the Court to mandate appropriate treatment rather than incarceration. Mental Health courts are part of the growing national trend towards therapeutic justice programs, or problem-solving courts, which are modeled on the nationally successful drug court programs. Like drug courts, mental health courts combine treatment with the coercive power of the judiciary and close supervision to ensure participants adhere to the treatment plan and other program requirements.

Clinical profiles of the clients served by mental health courts in New Mexico show the following:

- Major Depressive Disorder: 21%
- Bipolar Disorder: 32%
- PTSD: 10%

Anxiety Disorder:	8%
Psychotic Disorder (e.g. Schizophrenia)	26%
Borderline Personality:	2%
Clients on psychotropic medication:	66%

*Alcohol/drug use history*

Alcohol:	58%
Marijuana:	26%
Cocaine:	36%
Opiates:	3%
Amphetamines:	5%
Prescription medication:	29%

As with drug courts, mental health courts require close collaboration between the courts, the public defender's and district attorney's offices. Because of the time demands of such programs, mental health court budgets often include funds for all three agencies. Such programs also require treatment staff, in the form of psychologists or psychiatrists, family counselors, as well as court staff to administer and run the program who are trained for mental health diversion or supervised release services.

This appropriation would allow the Bernalillo County Metropolitan Court to replace lapsing federal grant funds that are essential to maintain operations at their current 150 participant capacity. It would also allow the First and Eleventh Judicial Districts to expand and enhance their existing Mental Health Court programs. Both programs at the First and at the Eleventh were started with volunteer services, donated staff time and supplies. The First has also benefited from a \$50,000 grant from the city of Santa Fe. The city grant will not be renewed for FY09 due to fiscal pressures at the city. Volunteer services can help a program get started but cannot be depended on for the long term. This appropriation would allow the First and Eleventh to institutionalize their programs, which otherwise risk shutting down when the city grant and volunteer services are no longer available.

**PERFORMANCE IMPLICATIONS**

FY 08 is the fifth year that the courts are participating in performance based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- cases disposed as a percentage of cases filed
- percent change in case filings by case types
- clearance rate

The success of the program will be measured by tracking the success of treatment and medication compliance and continued checking of court records for recidivism.

**ADMINISTRATIVE IMPLICATIONS**

There is an immediate administrative impact on the court resulting from added judicial and staff time needed to dispose of these types of cases in keeping with the dictates of the mental health court program. Over the long term, successful treatment of program participants should lead to a decrease in court workload as such participants recover sufficiently to lead more normal, law-abiding lives.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

The LFC recommendation adopted by HAFC includes \$100 thousand for the Eleventh Judicial District Court and \$223.3 thousand for Bernalillo County Metropolitan Court.

SB 214 should be reduced by \$323.3 thousand.

**OTHER SUBSTANTIVE ISSUES**

The major goal for Mental Health Court is the reduction of criminal conduct by individuals with a mental health diagnosis. The statistics below demonstrate a reduction of re-arrest rates of graduates from Mental Health Courts. It is further noted that this reduction of criminal conduct is particularly significant with respect to serious repeat offenders (defined as individuals who have had 3 or more criminal arrests in a 12 month period).

By way of example, in fiscal year 2005, there were 68 graduates from the Mental Health Court program in Bernalillo County. Of these graduates, 48 had less than 3 criminal charges filed against them during the 12 months preceding their graduations, respectively. The remaining 20 graduates had 3 or more charges filed during that same period. Therefore, the percentage of graduates with less than 3 criminal charges filed during the preceding 12 month period was 71% with the remaining 29% of the graduates constituting repeat offenders.

These graduation rates set forth in the chart below reflect that 49 of the 68 graduates (or approximately 72%) had no criminal arrests in the year following their graduations. Furthermore, the rate of serious repeat offenders was reduced from 20 cases (approximately 29%) to 4 cases (approximately 6%).

		Number of Charges											
		0	1	2	3	4	5	6	7	8	9	10+	TOTAL
<b>O F F E N D E R S</b>	12 months prior to graduation	0	37	11	9	7	3	0	0	1	0	0	68
	TOTAL		37	11	9	7	3	0	0	1	0	0	68
	12 months post graduation	49	12	3	2	2	0	0	0	0	0	0	
	TOTAL	49 had no New arrest	12 had one arrest	3 had two arrests	2 had three arrests	2 had four arrests	No new arrest						
<u>Recidivism Rates for fiscal year 2005 for Mental Health Court Graduates</u>													

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Bernalillo County Metropolitan Court will lose a significant portion of their program funding, leading to a severe reduction in capacity. The programs at the First and the Eleventh also risk shutting down from lack of recurring funding.

In addition, mentally ill offenders will remain in jail longer than required due to insufficient staff to arrange for aftercare. Untreated or inadequately treated mentally ill offenders will likely re-offend. The program will reduce the number of mentally ill offenders who are jailed repeatedly. . . “The revolving door.” This occurrence increases the risk to the community and perpetuates chronic re-entry into the criminal justice system.

CS/jp